

Calendar No. 105

107TH CONGRESS } 1st Session }	SENATE	{ REPORT 107-53
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THE FEDERAL JUDICIARY PROTECTION ACT

AUGUST 28, 2001.—Ordered to be printed

Filed under authority of the order of the Senate of July 30, 2001

Mr. LEAHY, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany S. 1099]

The Committee on the Judiciary, to which was referred the bill (S. 1009) to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

CONTENTS	
	Page
I. Purpose .....	1
II. Legislative history .....	1
III. Discussion .....	2
IV. Vote of the Committee .....	4
V. Section-by-section analysis .....	4
VI. Cost estimate .....	5
VII. Regulatory impact statement .....	6
VIII. Changes in existing law .....	7

I. PURPOSE

The purpose of S. 1099, the Federal Judiciary Protection Act, is to increase the criminal penalties for assaulting or threatening Federal judges, Federal law enforcement officers, U.S. officials, and their family members.

II. LEGISLATIVE HISTORY

The “Federal Judiciary Protection Act,” S. 1099, was introduced by Senator Gordon Smith and Senator Patrick Leahy on June 26,

89-010

2001. Given the noncontroversial contents of S. 1099 and the Committee's consideration of this legislation in the prior Congress, the Committee elected not to conduct any hearings on the matter. The Judiciary Committee met in executive session on July 26, 2001, to consider the bill. A reporting quorum being present, the bill was approved by voice vote and ordered favorably reported to the Senate.

This legislation was first introduced in the 105th Congress as S. 1189 by Senator Smith and cosponsored by Senators Leahy, Hatch, Thurmond, Stevens, Jeffords, Torricelli, and Hagel. On September 17, 1997, the Senate Judiciary Committee favorably reported S. 1189, and the Senate passed the bill by unanimous consent on November 9, 1997. The House of Representatives did not take action on S. 1189 in the 105th Congress.

This legislation was reintroduced in the 106th Congress as S. 113 by Senator Smith and cosponsored by Senators Leahy, Thurmond, Cochran, Jeffords, and Hagel. On July 27, 2000, the Senate Judiciary Committee favorably reported S. 113, and the Senate passed the bill by unanimous consent on September 28, 2000. The House of Representatives did not take action on S. 113 in the 106th Congress.

### III. DISCUSSION

#### *A. Threats against Federal judges, Federal law enforcement officers, U.S. officials, and their families*

Unfortunately, Members of the Committee are seeing more violence and threats of violence against officials of our Federal Government. Last week the Senate commemorated the lives of two Capitol Police officers, Officer Jacob Chestnut and Detective John Gibson, who were slain in the line of duty while protection the Capitol Building in 1998. A courtroom in Urbana, IL, was firebombed in 1999, apparently by a disgruntled litigant. We continue to mourn the victims of the horrible tragedy of the bombing of the Federal office building in Oklahoma City in 1995.

In Chairman Leahy's home State during the summer of 1997, a Vermont border patrol officer, John Pfeifer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two State troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

These examples underscore an alarming amount of evidence of threats and assaults against Federal judges, Federal law enforcement officers, and U.S. officials across the country.<sup>1</sup>

<sup>1</sup> The Federal Bureau of Investigation (FBI), as authorized by the Department of Justice, has primary jurisdiction in investigating all assaults, threats, and killings of Federal employees. The FBI investigates assaults, threats, and killings of Federal employees pursuant to title 18 U.S.C. secs. 111 (assaulting, resisting or impeding certain officers or employees); 115 (influencing, impeding or retaliating against a Federal official by threatening or injuring a family member); 1111 (murder); 1112 (manslaughter); 1114 (protection of officers and employees of the United States); 1116 (murder of manslaughter of foreign officials, official guests or internationally protected person); 117 (conspiracy to murder in violation of sec. 1114); 2231 (assault or resistance); and 1201(a)(5) (kidnapping in violation of 1114). Additionally, title 18 of the United States Code (U.S.C.) empowers the FBI to investigate assaults, threats, and killings of U.S. Supreme Court Justices and U.S. officials (the President, Vice President, Members of Congress, and the heads of executive branch departments) under title 18 U.S.C. sec. 351 (congressional, Cabinet, and Su-

From 1994 to 1998, Federal agencies reported assaults against 3,610 employees, which resulted in 1,033 injuries.<sup>2</sup> During this same period, 24 Federal law enforcement officers were slain in the line of duty. From 1994 through 2000, the Federal Bureau of Investigation (FBI) launched 4,481 investigations that involved a Federal officer being assaulted, threatened, or killed.<sup>3</sup>

The U.S. Capitol Police notes that threats against Members of Congress are growing more and more common. From 1994 to 2000, the FBI investigated 916 cases in which a Member of Congress was threatened or assaulted.<sup>4</sup> In fact, from October 1, 1999, to September 30, 2000, the U.S. Capitol Police investigated 1,357 threats and potential threats.<sup>5</sup>

For example, last month, Members of the Committee were saddened to read about death threats against Senator James Jeffords after his act of conscience in declaring himself an Independent. Senator Jeffords received multiple threats against his life, which forced around-the-clock police protection. These unfortunate threats made a difficult time even harder for Senator Jeffords and his family.

Similarly, the number of threats against members of the judiciary, U.S. attorneys, and other court officers is disturbing. The U.S. Marshals Service logs an average 682 threats or inappropriate communications against members of the Federal judiciary each year. Court security inspectors (CSO's) are charged with assessing these threats and determining their level of danger, and many of these result in round-the-clock protective details for court officers. In the last fiscal year, according to CSO reports, there were 1,102,567 detections of weapons such as guns, knives, and other items that posed a security risk or were prohibited in the courthouse. Of these weapons, 138,217 were permanently confiscated or abandoned at the courthouse.<sup>6</sup>

#### *B. The Federal Judiciary Protection Act, S. 1099*

The Federal Judiciary Protection Act, S. 1099, increases the criminal penalties for assaulting or threatening Federal judges, Federal law enforcement officials, and their family members.

Specifically, this bipartisan legislation would: increase the maximum prison term for forcible assaults, resistance, intimidation or interference with a Federal judge, Federal law enforcement officer or U.S. official from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, Federal law enforcement officer, or U.S. official from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kid-

preme Court assassination, kidnapping, and assault). The President and Vice President are protected by the U.S. Secret Service under title 18 U.S.C. sec. 3056. The Department of Treasury, pursuant to an October 2, 1956, agreement, has investigative jurisdiction over assaults, threats, and killings of its personnel.

<sup>2</sup> As reported in "Threats to Federal Law Enforcement Officers," the statement of Andreas Stephens, section chief, Violent Crimes and Major Offenders Section, FBI, before the Senate Committee on the Judiciary Subcommittee on Criminal Justice Oversight, Washington, DC, May 16, 2000, p. 2.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Thomas Frank, "Jeffords Received Death Threats," *Newsday*, June 1, 2001, p. A17.

<sup>6</sup> "Judicial Security," JSD Fact Sheet, July 26, 2001, p. 1 of 2, <http://www.usdoj.gov:80/marshals/factsheets/jsd.html>.

napping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years.

Under S. 1099, Federal law enforcement officers include U.S. Capitol Police Officers and U.S. officials include the President, Vice President, Cabinet Secretaries, and Members of Congress. In addition, S. 1099 would provide greater protection to all State and local law enforcement officers and other persons assisting a Federal judge, Federal law enforcement officer, or U.S. official in the performance of Federal duties including joint Federal-State investigations. The legislation enjoys the support of the U.S. Judicial Conference, the U.S. Sentencing Commission, and the U.S. Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal Government. We are fortunate to have dedicated women and men throughout the Federal Judiciary and Federal Government in this country who do a tremendous job under difficult circumstances. They are examples to the hard-working public servants that make up the Federal Government, who are too often maligned and unfairly disparaged.

It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary, Federal law enforcement officers, and other U.S. officials, to remind everyone that these are people with children and parents and friends. They deserve our respect and our protection.

#### IV. VOTE OF THE COMMITTEE

The Senate Committee on the Judiciary, with a quorum present, met on Thursday, July 26, 2001, to consider the "Federal Judiciary Protection Act." The Committee considered S. 1099 and approved the bill by voice vote, with no objection noted, and ordered the bill to be reported favorably to the Senate, with a recommendation that the bill do pass.

#### V. SECTION-BY-SECTION ANALYSIS

*Section 1—Short Title.* This section provides a short title: the "Federal Judiciary Protection Act."

*Section 2—Assaulting, resisting, or impeding certain officers or employees.* This section increases the maximum prison term for forcible assaults, resistance, intimidation, or interference with a Federal judge, Federal law enforcement officer, or U.S. official from 3 years imprisonment to 8 years and increases the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, Federal law enforcement officer, or U.S. official from 10 years imprisonment to 20 years.

*Section 3—Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member.* This section increases the maximum prison term for actual or attempted influencing, impeding, or retaliating against a Federal judge, Federal law enforcement officer, or U.S. official by threatening a family member of the employee, from 5 to 10 years, and from 3 to 6 years if the threat is to commit an assault.

*Section 4—Mailing threatening communications.* This section increases the maximum prison term from 5 to 10 years for threats

of injury or kidnaping of any person mailed to a Federal judge, Federal law enforcement officer, or U.S. official, and from 3 to 6 years for extortionate threats to a Federal judge, Federal law enforcement officer, or U.S. official

*Section 5—Amendment of the sentencing guidelines for assaults and threats against Federal judges and certain other Federal officials and employees.* This section directs the U.S. Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for assaults and threats against a Federal judge, Federal law enforcement officer, and U.S. official engaged in their official duties.

#### VI. COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the standing rules of the Senate, the Committee sets forth, with respect to the bill, S. 1099, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 27, 2001.*

Hon. PATRICK J. LEAHY,  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1099, the Federal Judiciary Protection Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226-2860.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, *Director*).

Enclosure.

#### CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

##### *S. 1099—Federal Judiciary Protection Act of 2001*

S. 1099 would increase the maximum sentences for persons who harm or threaten a federal employee. CBO expects that implementing S. 1099 would have a negligible cost to the federal government over the 2002–2006 period. Because enacting the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 1099 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Because those sentenced under S. 1099 could receive longer prison sentences than under current law, CBO expects that enacting the bill could increase the costs of the Bureau of Prisons. But, based on information from the Administrative Office of the United States Courts, CBO expects that fewer than 100 individuals each year might receive increased sentences for harming or threatening to harm a federal employee. In addition, it is likely that the majority of such individuals are convicted and sentenced for committing more than one crime, so that any increase in federal prison oper-

ating costs as a result of implementing S. 1099 would likely occur after 2006. Such costs would be subject to the appropriation of the necessary funds.

The CBO staff contact for this estimate is Lanette J. Walker, who can be reached at 226-2860. The estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

#### VII. REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b)(1), rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concludes that S. 1099 will not have significant regulatory impact.

## VIII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1099, as reported, are shown as follows (existing law proposed to be omitted is enclosed in bold brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

# UNITED STATES CODE

\* \* \* \* \*

## TITLE 18—CRIMES AND CRIMINAL PROCEDURE

Part	.....
Section	.....
I. CRIMES	.....
1	.....
* * * * *	.....

### PART I—CRIMES

Chapter	.....
Section	.....
1. General provisions	.....
1	.....
* * * * *	.....

Sec.	.....
111. Assaulting, resisting, or impeding certain officers or employees.	.....
* * * * *	.....

#### § 111. Assaulting, resisting, or impeding certain officers or employees

##### (a) In general.—Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than

one year, or both, and in all other cases, be fined under this title or imprisoned not more than ~~three~~ 8 years, or both.

**(b) Enhanced penalty.**—Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than ~~ten~~ 20 years, or both.

\* \* \* \* \*

**§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member**

(a)(1) Whoever—

\* \* \* \* \*

(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

\* \* \* \* \*

(4) A threat made in violation of this section shall be punished by a fine under this title or imprisonment for a term of not more than ~~five~~ 10 years, or both, except that imprisonment for a threatened assault shall not exceed ~~three~~ 6 years.

\* \* \* \* \*

**CHAPTER 41—EXTORTION AND THREATS**

Sec.

871. Threats against President and successors to the Presidency.

\* \* \* \* \*

**§ 876. Mailing threatening communications**

(a) Whoever knowingly deposits in any post office or authorized depository for mail matter, to be sent or delivered by the Postal Service or knowingly causes to be delivered by the Postal Service according to the direction thereon, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person, and containing any demand or request for ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person any money or other thing of value, so deposits, or causes to be delivered, as aforesaid, any communication containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever knowingly so deposits or causes to be delivered as aforesaid, any communication with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than five years, or both. *If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the*



*individual shall be fined under this title, imprisoned not more than 10 years, or both.*

(d) Whoever, with intent to extort from any person any money or other thing of value, knowingly so deposits or causes to be delivered, as aforesaid, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to injure the property or reputation of the addressee or of another, or the reputation of deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both. *If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.*

\* \* \* \* \*

